

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHONGYEE LENGNOU XIONG,) 1: 02-CV-6525-SMS
)
Plaintiff,) ORDER VACATING HEARING ON
v.) SEPTEMBER 9, 2005, ON DEFENDANT'S
) MOTION FOR SUMMARY JUDGMENT
ANN VENEMAN, Secretary of the) (DOCS. 34, 26)
U.S. Department of)
Agriculture,)
Defendant.)
_____)

Plaintiff is proceeding with a civil action in this Court.
The matter has been referred to the Magistrate Judge for all
proceedings, including the entry of final judgment, pursuant to
28 U.S.C. § 636(c), Fed. R. Civ. P. 73(b), and Local Rule 73-301.

The Court has received the Defendant's position paper
regarding Plaintiff's filing of late opposition. The Court has
determined that Pursuant to Rule 78-230(c) of the Local Rules of
Practice for the United States District Court, Eastern District
of California, Plaintiff's opposition to Defendant's motion for
summary judgment was untimely, and thus, Plaintiff is not
entitled to be heard in opposition to the motion at a hearing.
The Court is considering Defendant's motion. However, pursuant to

1 Local Rule 78-230(c) and the Court's exercise of its discretion,
2 the hearing on the motion for summary judgment previously set for
3 September 9, 2005, at 9:30 a.m. IS VACATED.

4
5 IT IS SO ORDERED.

6 **Dated: August 30, 2005**
7 icido3

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE